IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 16648 of 2004

Between:

Smt. B. Gayathri Devi W/o B. Anjaneyulu Indira Priyadarshini Market Complex, Tirupati

..... PETITIONER

AND

1 The Municipal Commissioner Tirupati Municipality, Tirupati
2 Revenue Officer, Tirupati Municipality, Tirupati

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings R.O.C. No. 12855/99/A1. dt 11-11-2003 issued by the 1st respondent through the 2nd respondent as illegal arbitrary, highly excessive and contrary to the A.P. Municipalities Receipt and Expenditure Rules and Set-a side the same and consequently direct the respondents to follow the rules by enhancing the rent 33% of which was followed in the case of shop Room NO.66

Counsel for the Petitioner: SMT.S.V.INDIRA

Counsel for the Respondent No.: MR.K.BATHI REDDY

The Court at the stage of admission made the following :

The petitioner is allotted Shop No.31in Indira Priya Darshini Shopping Complex, Tirupati, belonging to the 1st respondent – Municipality on a monthly rent of Rs.155/-. By the impugned proceedings, while renewing the period of lease in respect of the said shop from 1-4-2003 to 31-3-2006, the 1st respondent enhanced the rent from Rs.155/- to Rs.1600/- and the petitioner was directed to pay the difference amount from 1-4-2003 to 30-11-2003. Aggrieved by the condition of enhancing the rent, the present writ petition is filed.

The case of the petitioner is that he belongs to Schedule Tribe and therefore the respondent – Municipality shall follow G.O.Ms.No.258MA dated 2-4-1993 in enhancing the rentals, which ordains that rent payable by a Schedule Tribe member shall be Rs.2-50 ps per Sq. Feet or 50% of the rentals payable for the neighboring shop rooms, whichever is less. He further claims that the rent in respect of his neighbor shop NO.66 is fixed at Rs.400/- and therefore, at any rate, the enhancement of rent in respect of the petitioner's shop is illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent – Municipality.

Learned counsel for the petitioner submits that the petitioner belongs to Schedule Tribe and therefore entitled to the benefits of G.O.Ms.No.258MA dated 2-4-1993, as per which the rentals payable by Schedule Tribe members shall be Rs.2-50 ps per Sq. Feet or 50% of the rental paid by the neighboring shop rooms, which ever is less without the normal channel or public auction under the third proviso to "Rule 12(1) (B) of the Andhra Pradesh Municipalities (Regulation of Receipts and Expenditure) Rules, 1968. He further submits that the petitioner has also made a representation to the 1st respondent to enhance the rent by 33% of the existing rent only as is done in case of other shops and the same is pending before the 1st respondent.

In spite of granting sufficient time, the learned standing counsel for the respondent-municipality is unable to get instructions in the matter and no counter affidavit is filed.

In the circumstances, having regard to the fact that the representation filed by the petitioner is pending consideration before the 1st respondent, I deem it appropriate to dispose of the writ petition with the following direction:

The 1st respondent is directed consider and dispose of the representation filed by the petitioner in regard to enhancement of rent in respect of the shop in question, in the light of the Rules prevailing as on date.

The writ petition is accordingly disposed of. No costs.

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22-11-2004

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To

1 The Municipal Commissioner Tirupati Municipality, Tirupati
2 Revenue Officer, Tirupati Municipality, Tirupati

3. Two C.D. copies